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ABSTRACT

Provided are guidelines for educators in New York State to fulfill responsibilities mandated by the Child Protective Services Law, designed to protect abused and maltreated children, which include writing and updating the policies of the school district, actual case reporting, case coordination, in-service training programs, and general information dissemination. (IM)

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IMPLEMENTING THE NEW YORK STATE CHILD PROTECTIVE SERVICES LAW: A GUIDE FOR SCHOOLS

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Introduction

New York State's Child Protective Services Law is designed to prevent abused and maltreated children "from suffering further injury and impairment" at the hands of their parents, caretakers, or persons legally responsible for children. The law's purpose is to encourage more complete reporting, to investigate reports swiftly and competently, and to provide rehabilitative services to children and parents who have been reported.

In order to achieve this intent and purpose, the law clearly defines the rights and responsibilities of mandated reporters to report suspected cases of child abuse and maltreatment, the duties of child protective services agencies, the duties of the State Central Register, and the rights of parents who have been reported.

The passage of this law has had a major effect on school systems in New York State. School officials account for 27% (3,091 reports) of all mandated reports to the State Central Register. This statistic ranks school officials as the top mandated reporters in the state.

The frequency of reports and the impetus of the law has been the catalyst for local school districts to establish written policies on the reporting and coordination of suspected child abuse and maltreatment cases eminating from schools. It has sparked interest in training school officials to their rights and responsibilities under the law as well as on identification of child abuse and neglect.

Development of policy and programs for handling child abuse and neglect reports.

The New York State Department of Education has encouraged the development of a "written policy and procedures to guide school personnel in making referrals." It also encourages each school district to assign a staff member to a liaison position with the local child protective services unit. If each district were to have a liaison position, what would be the qualification and duties of this position?

Qualifications

It would seem appropriate that the liaison to the child protective services should be someone from pupil personnel services eg. school nurse-teacher, school counselor, school social worker or school psychologist. The person should be able to communicate well with school officials, children and parents, as well as have the freedom to respond to emergency child protective situations. It would be essential for the person to be sensitive and knowledgeable about family and community dynamics which may contribute to child abuse and maltreatment.

Duties of the liaison

The first duty of the liaison should be to develop written

policies and procedures on reporting child abuse and maltreatment in his or her respective district. This policy should be developed in accordance with the New York State Child Protective Services Law and the guidelines set down by the New York State Department of Education. The policy should be supported by the local board of education. The state education guidelines include but are not limited to the following areas:

- -the name of the school official responsible for liaison to the child protective services
- -the state toll free telephone number
- -the method of completing, forwarding and filing copies of form DSS-2221A and for destroying this form if the case is determined to be "unfounded" by the local child protective service
- -the policy concerning interviewing students at school by child protective service caseworkers
- -the availability of the school physician
- -the access to a camera for photography and/or a method for referral to local clinics or hospital for examinations and photographs
- -the development of a clear understanding of the definition of an abused or maltreated child as it exists in New York State law.
- -the legal rights and responsibilities for school personnel

(See Appendix I)

Along with the responsibility for writing and updating a school district's policies, the liaison also should have responsibility for the following areas:

1. Actual case reporting
2. Case coordination
3. Training
4. General information dissemination

(See Appendix II and III)

1. Actual Case Reporting

The liaison immediately would receive or be aware of all reports of suspected child abuse or maltreatment coming from his or her school district. Reports would be reviewed for completeness, accuracy, and seriousness and either reported directly to the State Central Register by the liaison or by the school official suspecting the abuse or maltreatment. The liaison would insure that all responsibilities concerning x-rays, photographs and protective custody were adhered to if the situation warranted them.

A critical duty of the liaison during the reporting phase would be to insure that the child's upset over the reporting process is held to a minimum. Many abused or maltreated children feel they are to blame for the situation and/or injury rather than their parents and as a result are confused and frightened by a reporter's concern. The child also may fear retaliation by the parent because the child told of or allowed the injury or incident to be discovered. Another issue that must be understood is that the parent may have sent the child to school with obvious injuries as a plea for help.

These issues in reporting can be dealt with by insuring that the child suspected of being abused or neglected has a school official sensitive to his or her problems and needs during this time. A child's upset also can be minimized if he or she is not subject to numerous and haphazard questioning by a variety of well-meaning school personnel. Reasons why the school is concerned with the child's injuries or condition and what will happen to the child have to be explained to the child by the liaison in age-appropriate terms. This becomes critical if x-rays, photographs, or protective custody are taken.

The liaison should take an active part in relating the school's position to the parents in making the report. An explanation of the suspicions and the school's responsibilities under the law should be central issues discussed with parents. If this is done firmly, with empathy and understanding as to how abuse and neglect occur in families, a meeting of this kind will often contribute to a positive outcome of the case.

2. Case Coordination

Although reporting suspected child abuse and neglect may end the school's legal obligations under the law, the school should continue its concern for child and family. Whenever appropriate, the liaison should offer assistance to the local child protective services staff in evaluating the case and developing a service plan for the child and family. This assistance should come through individual contact with a caseworker responsible for the case and by requesting a formal case meeting with the child protective services unit. The school is in an excellent position to monitor the child as to the effects of the investigation and the service plan on his or her well being. The school is one of the first social agencies to see whether the abuse or maltreatment is continuing (sometimes

under different forms) or whether the family and the child are breaking out of the cycle of abuse and maltreatment.

Case coordination through the liaison will minimize problems that naturally arise when two or more social agencies are working with children and families. It provides a forum for differing points of view on the assessment and service plan which must be developed for the family by the local child protective services agency. The liaison would take the responsibility to inform all pertinent school officials of the progress of the case.

3. Training

The liaison should coordinate and take part in in-service training programs for school officials in his or her district. These programs should include the school officials' rights and responsibilties under the law, identification of child abuse and maltreatment, dyamics of child abuse and maltreatment as well as school policy and procedure. Training would concentrate on the attitudes and values of school personnel as they relate to child abuse and neglect eg. corporal punishment, family privacy, etc. Experience shows that comprehensive in-service training for school officials of all levels increases the probability of an effective school policy on child abuse and neglect.

4. General Information Dissemination

The liaison should develop written materials for parents of children in the school district. These materials should stress the role of the school in reporting child abuse and neglect, the school's own policy, and the rights of parents who have been reported. The materials should be distributed at the beginning of every school year through a general mailing, parent-teacher meetings or as handouts. Special care should be given to insure the materials offer a sensitive, empathetic but firm approach to the problem of child abuse and neglect.

Conclusion

The experience in New York State with the Child Protective Services Law has lead educators and child protective services professionals to encourage the concept of a liaison in many school districts. This person should have as qualifications sensitivity and knowledge of all aspects of child abuse and neglect. A liaison should develop a school district's written policy on case reporting, case coordination, training and information dissemination to parents. This person should act as the agent of the school district in all matters of reporting, case coordination and training. Inevitable problems that result from a school officials' reports of suspected abuse or neglect can be minimized with such a system.

APPENDIX I

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12224

ASSOCIATE COMMISSIONER FOR
EDUCATIONAL FINANCE
AND MANAGEMENT SERVICES

TO: City, Village and District Superintendents
Supervising Principals, Directors of Pupil Personnel Services

FROM: Stanley L. Raub

SUBJECT: Child Abuse and Maltreatment: Suggestions for School Personnel

Chapter 1039, Laws of 1973, added a new Title 6 to the Social Services Law which has important implications for school administrators and pupil personnel service workers. Its purpose is to provide protective services to abused and maltreated children and reads, in part, as follows:

> Abused and maltreated children in this state are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment. It is the purpose of this title to encourage more complete reporting of suspected child abuse and maltreatment and to establish in each county of the state a child protective service capable of investigating such reports swiftly and competently and capable of providing protection for the child or children from further abuse or maltreatment and rehabilitative services for the child or children and parents involved.

Although the child protective service of the county departments of social service is the agency legally responsible for investigating incidents of suspected child abuse and maltreatment, school personnel have an important role to play in identifying and reporting such situations. Moreover, since school personnel are the largest single source of referrals for protective services, it is important that they be aware of their legal responsibilities.

Questions frequently asked by school personnel are:

What is the purpose of the Child Protective Service Act?

It is directed toward case finding to protect children from abuse and maltreatment and to help parents with serious child-care problems. A child protective service is established in each county in order to facilitate this purpose.

What is the definition of child abuse and maltreatment?

Section 412 of the new Title 6 of the Social Services Law defines an abused child as a child under 16 years of age who is defined as an abused child by the Family Court Act. Section 1012 of the Family Court Act defines an abused child as follows:

(e) "Abused child" means a child less than sixteen years of age whose parent or other person legally responsible for his care

(i) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or

(ii) creates or allows to be created a substantial risk of physical injury to such a child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ or

(iii) commits, or allows to be committed, a sex offense against such child, as defined in the penal law, provided, however, that the corroboration requirements contained therein shall not apply to proceedings under this article.

Section 412 of the new Title 6 of the Social Services Law defines a maltreated child as a child under 18 years of age defined as a neglected child by the Family Court Act or one who has had serious physical injury inflicted upon him by other than accidental means. Section 1012 of the Family Court Act defines a neglected child as follows:

(f) "Neglected child" means a child less than 18 years of age

(i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care

(A) in supplying the child with adequate food, clothing, shelter or education in accordance with provisions of part one of article sixty-five of the education law, or medical, dental, optometrical or surgical care though financially able to do so or offered financial or other reasonable means to do so; or

(B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by using a drug or drugs; or by using alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; or

(ii) who has been abandoned by his parents or other person legally responsible for his care.

(g) "Person legally responsible" includes the child's custodian, guardian, any other person responsible for the child's care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child.

(h) "Impairment of emotional health" and "impairment of mental or emotional condition" includes a state of substantially diminished psychological or intellectual functioning in relation to, but not limited to such factors as failure to thrive, control of aggression or self-destructive impulses, ability to think and reason, or acting out and misbehavior, including incorrigibility, ungovernability or habitual truancy; provided, however, that such impairment must be clearly attributable to the unwillingness or inability of the respondent to exercise a minimum degree of care toward the child.

What kind of situations must school authorities report?

All suspected cases of child abuse and maltreatment as defined above. It is traditional that over the years New York State school personnel have attempted to assist children and their families directly and by referral to community agencies in situations that do not involve abuse and maltreatment, and of course this exemplary practice should continue.

Which school personnel are required to report incidents of child abuse or maltreatment?

All school officials such as administrators, teachers, school-nurse teachers, and school social workers are required to inform the chief school officer or his delegate of suspected cases of abuse or maltreatment. The officer or his delegate then has the responsibility to report as indicated below. It is the responsibility of the child protective service of the local county department of social service to make the investigation.

Child abuse and maltreatment are not limited to low-income families. School personnel in middle and upper class communities may be reluctant to become involved in this reporting procedure. One means of clarifying their responsibility to report all cases of suspected child abuse and maltreatment, is for school personnel to meet with their local child protective service staff to discuss this matter. The school attorney and the attorney for the local department of social services should attend this meeting to review legal questions.

How does the school administrator report?

Cases of suspected abuse and maltreatment (neglect) must be reported to the New York State Child Abuse and Maltreatment Register through its toll-free number 1-800-342-3720. (In New York City, cases must be reported to the New York City Central Registry 431-4680).

State Department of Social Service Form DSS-2221A, "Report of Suspected Child Abuse or Maltreatment," must be sent to the local child protective service by the school official reporting the case within 48 hours after the oral (telephone) report to the State Central Register. This written report may be used as evidence in the event the referral precipitates legal proceedings.

If a school official believes a child should be taken into protective custody, this should be noted when the oral report is made to the State Central Register in order that immediate action by the local child protective service may be initiated.

What documentation may the school district provide when filing a report?

When a school employee reports a case of suspected child abuse or maltreatment, the school administrator, or his or her designated agent, may take or cause to be taken at public expense, color photographs of visible trauma and shall, if medically indicated, cause a radiological examination to be performed on the child.

What are the legal implications for school personnel?

School personnel who, in good faith, make a report or who take photographs of injuries and bruises have immunity from any liability, civil or criminal, that might otherwise result by reasons of such action. The good faith of any person required to report cases of child abuse or maltreatment is presumed.

It should be noted that any person required to report child abuse or maltreatment who willfully fails to do so is guilty of a class A misdemeanor and may be civilly liable for the damages proximately caused by such failure.

School officials should assist the staff of the child protective service to fulfill their responsibilities. However, if the abuse or maltreatment did not occur on school property, in so far as practicable it should be investigated outside of school property, including the taking of photographs, and interviews with the child. There may be circumstances where it may be necessary to interview the child at school and this should be done in the presence of a school official.

What about school records and reports?

School administrators can request a summary report of the investigation of cases referred to a child protective service. Such reports are not made routinely but are available upon request and must be kept confidential and in a secure location.

The adult subject of a case of suspected child abuse or maltreatment has a right to a copy of all information in the State Central Register. However, data that would identify the person who made a report or who cooperated in a subsequent investigation, may be withheld if such is detrimental to the safety or interest of that person. The determination as to whether or not the information is detrimental to the safety of the person making the report is made by the State Commissioner of Social Services.

When a report has been determined to be unfounded, all identifying data in the State Central Register are automatically expunged. The school must also destroy its records.

How does the school district develop its policy and procedures for reporting child abuse?

School authorities should develop written policies and procedures to guide school personnel in making referrals. A staff member should be assigned liaison responsibility with the child protective service of the local department of social services. The school board attorney should be consulted in establishing the school district policy and procedures. These should include:

the name of the school administrator responsible for liaison to protective services

the state toll-free telephone number

the method for completing, forwarding and filing copies of Form DSS-2221A and for destroying this Form if the case is determined to be "unfounded" by the local child protective service

the policy concerning interviewing students at school by child protective service staff members

the availability of the school physician

the access to camera for photographs or method of referral to local clinics or hospital for examinations and photographs

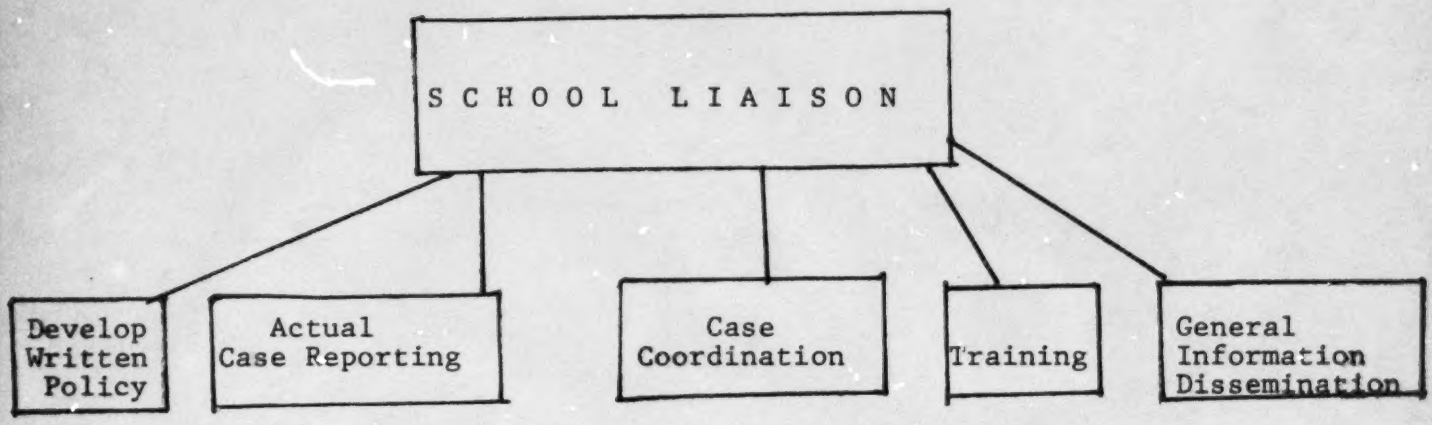
the development of a clear understanding of the definition of an abused or maltreated child

the legal implications for school personnel

If further information is desired concerning any aspects of suspected cases of child abuse or maltreatment, please contact the Bureau of School Social Services, telephone (518) 474-8790.

APPENDIX II

Duties of School Liaison



APPENDIX III

Case Reporting and Coordination

Step 1. Receives report made by the teacher or building administrator

Step 2. Reviews report

Step 3. Insures report made to the Central Register or to a local CPS unit responsible for investigating

Step 4. Directly or indirectly insures the child's situation at school is being dealt with sensitively

Step 5. Works with CPS caseworker on the report

Step 6. Discusses report with the family

Step 7. Follows case coordination and assessment

Step 8. Reports to the teacher and/or building administrator as to the progress of the case

Step 9. Keeps records of the child's condition after the report is made